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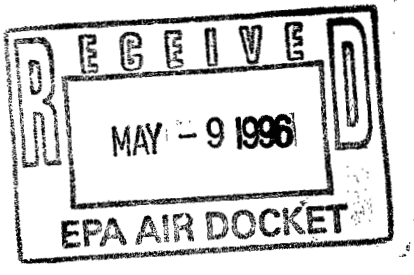
REGULATORY IMPACT ANALYSIS

FOR

PART 71 FEDERAL OPERATING PERMIT RULES



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ECONOMIC IMPACT ANALYSIS

TABLE OF CONTENTS

1. INTRODUCTION

1(a) TITLE AND DESCRIPTION OF THE ECONOMIC IMPACT ANALYSIS

This document responds to the requirements of Executive Orders 12866, 12875 and 12898; the Paperwork Reduction Act; and the Regulatory Flexibility Act. The requirements are caused by the need for the development of a part 71 Federal operating permit program under title V of the Act. The part 71 program will be implemented in those areas without acceptable part 70 programs. Title V of the Act imposes on States the duty to develop, administer and enforce operating permit programs which comply with title V and requires EPA to stand ready to issue Federal operating permits when States fail to perform this duty. Section 502(b) of the Act requires EPA to promulgate regulations setting forth provisions under which States will develop operating permit programs and submit them to EPA for approval. Pursuant to this section, EPA promulgated 40 CFR part 70 on July 21, 1992 (57 FR 32250) which specifies the minimum elements of State operating permit programs. For convenience, section 502(b) of the Act has been included as an appendix to this report.

1(b) EXECUTIVE SUMMARY

In the event that a permitting authority does not receive approval for its proposed permitting program by November 15, 1995, the Act requires the Environmental Protection Agency to step in and manage a permitting program in its stead. This Federal operating permit program is defined in the proposed 40 CFR part 71 rule published on April 27, 1995 (60 FR 20804). The EPA has developed a supplemental proposal for part 71 that primarily relates to how permits would be revised. This RIA describes the economic impact of the proposed part 71 program, including the proposed changes to the permit revision process incorporated in that supplemental proposal. While very similar to the part 70 operating permits program managed by States or local permitting authorities, there are several differences that result in the Federal permitting program currently under consideration to be more burdensome and costly on a per source basis. Table 1-2 below illustrates the breakdown of part 71's burden and costs.

The baseline for this analysis is the August 1995 supplemental proposal ICR, which estimates 34,324 sources permitted under part 70 (see table 6-1 for a breakdown of these sources) at 112 Permitting Authorities. Of these, the Agency expects that eight States are likely to fail to have their operating permit program approved by November 15, 1995 and require Federal intervention. A survey of these eight States indicates there are approximately 1,980 sources in these States, or 5.8 percent of the national estimate. For purposes of simplification in this analysis, the Agency used 6 percent of the total reported in part 70 as its determination of the number of sources (2, 059 sources). Table 1-1 lists these eight States and the number of sources they reported. The source permitting burden under part 71 is estimated to be 678 thousand hours per year for sources, or 329 hours per source. This compares to a part 70 burden of 355 thousand

hours per year for a comparable universe of sources, or 172 hours per source. [1] Therefore, part 71 represents a 91% increase in source burden. Utilizing a similar method as that used for analyzing burden, the annualized cost to affected sources for a part 71 permitting program is $18.1 million. This represents an increase from $12.8 million per year under part 70, (approximately 42%). Per source annual costs change in a similar fashion, from $6,223 per year under part 70 to approximately $8,803 per year under part 71. This is also an increase in per source costs of 41% over the part 70 rate.

TABLE 1-1
STATES EXPECTED TO REQUIRE A PART 71 PROGRAM

STATE	REPORTED NUMBER OF SOURCES
Connecticut	100
Idaho	129
Michigan	1,000
Maine	100
New Hampshire	100
Rhode Island	135
Vermont	50
Virginia	366
TOTAL	1,980

These changes stem from several significant differences between parts 70 and 71. First, for those sources assumed to be eligible under part 70 for general permits, it is assumed that no such alternative will be made available under the part 71 Federal program. Second, the Agency believes that in general it will take at least as long, (and in many cases longer,) for the same task to be performed under part 71 *via a vis* part 70. This is due to the fact that the permitting authority generally has a comparative advantage over the part 71 program manager. If the Agency or its contractor manages a part 71 program, it must first gather sufficient human capital (experience, background, etc.) that it can efficiently perform its duties.

1 This figure was established by taking two year's worth of the source burden under the 1995 proposed part 70 revision and multiplying the total by 6 percent to approximate the impact of part 71 on eight States. This allows the analysis to utilize the same baseline of sources and revisions at the same time.

TABLE 1-1
PART 71 SUMMARY *

	TOTAL	PER SOURCE
Expected Number of Sources	2,059	
Average Burden Hours		
Respondents	677,719	329
Federal	534,998	243
Total	1,177,572	572
Annualized Cost (thousands)		
Respondents	$18,125	$8,803
Federal	$19,813	$9,622
Total	$37,938	$18,425
Federal Fee		$26.85

* Based on a fully delegated Federal Operating Permit Program.

2. SCHEDULES FOR OMB REVIEW

The part 71 proposal was presented to OMB and published on April 27, 1995, and the supplemental proposal was presented in June 1995. The Administrator anticipates promulgation of the supplemental proposal in late 1996.

3. NEEDS AND CONSEQUENCES

This chapter of the Economic Impact Analysis summarizes the statutory requirements affecting the development of a Federal operating permit program and describes the nature of the problem. The need for regulatory action and the consequences of the regulation in terms of improving the functioning of the market are also discussed.

3(a) NATURE OF THE PROBLEM

In the absence of government regulation, market-oriented economic systems typically fail to prevent elevated levels of pollution in the environment because the environment is a public good. More specifically, individual sources treat the assimilative capacity of the environment as a "free" resource and dispose of unused byproduct emissions to the atmosphere. Under these conditions, emitters of pollutants and pollutant precursors do not internalize the cost of damages created by their own emissions. These damages occur to society as a whole, rather than to specific members of society. This is because pollution emissions are non-market goods -- goods not bought or sold in the marketplace -- and the atmosphere carries with it no property rights. The damages of pollution include increased morbidity and mortality; property damage from

soiling, staining, and corrosion; and productive loss due to decreased worker efficiency, crop and livestock damage, and increased wear and tear on capital stocks. All of these damages are measurable. In addition, there are damages caused by pollution that are much harder, if not impossible, to quantify. These damages include habitat loss, diminished biodiversity, reductions in aesthetic quality, option values, and existence values.

The divergence between the private cost of production and the social cost of production occurs because the source does not bear the full cost of its activities (market costs plus damages). The outcome of the cost divergence is market failure, where as described in this case, the level of output is such that marginal social benefits are not equal to marginal social cost. The result is economic inefficiency, or a mis-allocation of society's resources; the polluting activity (e.g., the release of ozone precursors) occurs at too high a level in comparison to the optimally efficient situation, thus reducing the potential total benefits to society. Regulatory strategies attempt to correct for the divergence between social and private costs. Using regulatory strategies to internalize the negative externality may not, however, result in zero air pollution. Economic efficiency calls for abatement up to the point where additional abatement would cost more than the additional benefits would be worth to society.

In addition to government regulation, other potential mechanisms may be used to correct for the negative externality brought about by air pollution. Negotiations or litigation under tort and common law, in theory, could result in compensation to persons for the damages that they incur. However, two major obstacles block the correction by the private market for pollution-based inefficiencies and inequities. The first obstacle is high transaction costs when millions of persons are affected by millions of pollution sources. Transaction costs of compensating those adversely affected arise and accumulate because the current and future injury to each individual must be appraised, the injury must be apportioned to each precursor source, and damage suits or negotiations must be conducted. In an unregulated market, each source of precursor emissions and each affected person would have to litigate or negotiate. The transaction costs would be so high as to probably exceed the benefits of reduced air emissions. These obstacles strongly suggest that another mechanism is desirable for solving the air pollution problem caused by widespread emissions of ozone precursors.

The second obstacle discouraging resolution by the private sector is due to the public good nature of air resource. That is, after emission reductions have been achieved, the benefits of cleaner air can be enjoyed by additional persons at no additional cost. This results in the classic "free rider" problem. Everyone would have an incentive to be the last to contribute resources for litigation or negotiation, thinking that he or she would freely benefit from the efforts of others.

3(b) LEGISLATIVE REQUIREMENTS

Federal regulation has been undertaken to ensure that sources internalize as much of the external costs of their productive activities as possible. With respect to the air media, this regulation is spelled out in title V of the Clean Air Act Amendments of 1990 (CAAA) and requires each State to develop State Operating Permit Programs to manage pollution sources within their jurisdiction. These programs are defined under 40 CFR part 70. In the event that a permitting authority does not receive approval for its proposed permitting program by November 15, 1995, the Act requires the Environmental Protection Agency to step in and manage a permitting program in its stead. This Federal operating permit program is defined in the proposed

40 CFR part 71 rule currently under consideration.

4. CONSIDERATION OF ALTERNATIVE APPROACHES

Following the OMB guidance of Executive Order 12291, the range of potential strategies to be considered by this Regulatory Impact Analysis include no regulation, command-and-control approaches employing performance-based standards, enforcement measures, alternative effective dates of compliance and market-based strategies. This section of the Regulatory Impact Analysis discusses potential alternatives to the development of a Federal operating permit program.

4(a) NO REGULATION

The Act requires EPA to promulgate and administer a Federal Operating Permits Program in the event a State or other permitting authority does not have an acceptable part 70 permit program in place by November 15, 1995 or in the event an approved part 70 program is not adequately administered and enforced. Therefore, the "No Regulation" alternative is not acceptable in these cases.

4(b) ALTERNATIVE EFFECTIVE DATES

Because part 70 and 71 programs are mandated, the consideration of alternative effective dates is not appropriate to this analysis. However, as currently proposed, part 71 would delay the effective date of the program on Tribal lands until as late as November 15, 1997.

4(c) ECONOMIC INCENTIVE ALTERNATIVES

To some extent, the development of a part 71 permitting program is an economic incentive strategy. In conjunction with part 70, the purpose of title V of the Act is to create a system of pollution charges (fees) that bring into closer agreement the social and private costs of production for most sources of pollution in the United States. The managerial costs of a part 70 or part 71 permitting program must be passed on to the source in the form of a per ton per year pollution fee. This fee increases the cost of production by increasing the cost of pollution, thereby inducing the source to seek less polluting alternatives. While the cost of the permit may not (and probably will not) be the same as the true social cost of a ton of pollution, it acts as a good first order approximation of that social cost. This works to solve the "free rider" problem discussed above in section II of this analysis.

Other economic incentive strategies include marketable permits and subsidies. Marketable permits work to equate marginal private costs with marginal social costs by allowing sources to arbitrage comparative advantages in pollution control. Through marketable permits, a source that can abate at less cost will abate beyond its own needs and sell its surplus pollution abatement capacity on the market to sources that incurs greater costs for their abatement. In this manner, the same level of environmental quality is achieved at a lower cost to sources. While marketable

8

permits are not excluded from use under parts 70 and 71, they are beyond the scope of this economic impact analysis. Since the application of a voluntary marketable permit program could never increase costs, this analysis will ignore such an alternative and establish an upper bound on the economic impact of the part 71 program.

Title V makes provisions for Federal subsidies through the establishment of small business stationary source technical and environmental assistance programs under section 507. In addition, the Administrator has the option to establish differential permit fees for specific source categories, provided such differential fees do not result in any degradation of the environment and the permitting program is still able to cover its cost of implementation though the fees collected. This differential in permit costs constitutes a subsidy for those source categories.

5. ASSESSING BENEFITS

5(a) INTRODUCTION

This chapter addresses the potential benefits associated with implementation of the title V operating permits program. This is an appropriate discussion for the part 71 rule because, in conjunction with the part 70 rule, part 71 is the vehicle through which the title V benefits are achieved. Title V was legislated in order to improve air quality management. To be more specific, the program is designed to:

a. improve the effectiveness of the current permitting system and facilitate the adoption of lower cost control strategies based on economic incentive approaches;
b. consolidate source requirements into one Federally-enforceable document, thereby providing greater certainty to sources regarding their applicable requirements under the Act and facilitating better Federal/State/local enforcement efforts;
c. facilitate implementation of other titles of the Act;
d. improve the quality of emissions data and other source-related data; and
e. update the Act for consistency with other environmental quality legislation that utilizes permit systems.

A formal quantitative benefits analysis for this rule should include the valuation of more efficient enforcement activities, fewer legal actions due to greater certainty for sources regarding their applicable requirements, administrative savings due to better emissions data, and cost savings due to opportunities to consolidate reporting. These categories have impacts which can be attributed to part 71. However, their benefits are intangible in that they provide for *qualitative* changes and, therefore, the monetized benefits from these categories are not readily obtainable.

Environmental benefits that can be measured monetarily accrue in two places in title V. First, there is an environmental benefit to improved effectiveness of the permitting system. To the extent that the intangible benefits categories listed above improve the information and oversight functions of the permitting program, the incentive to act in a noncompliant manner diminishes for any particular source. Consequently, from an enforcement perspective, title V improves air quality by removing some of the incentive to cheat. Little information exists as to just how large this impact will be.

9

The second source of part 71 environmental benefit derives from the more pure theory of environmental economics. Since a permit is an additional cost to sources that is, to a great extent, variable with production, the cost minimizing firms will have to increase prices to cover this additional cost. Higher prices tend to reduce output, and decreased production means lower levels of pollution will be emitted. This benefit was also not quantified, for several reasons. First, the pollution abatement impact of the part 71 permitting program is only quantifiable with the determination of the entire supply and demand relationship for several hundred SIC codes. This is well beyond the scope of the RIA. Second, in counterpoint to the benefits of reduced production in response to increased variable costs, there is a dis-benefit associated with the loss of revenue and/or profit associated with each of these SIC code industries. Again, quantification of this secondary effect is outside the scope of the RIA.

Finally, permits are a part of the infrastructure of the Act, in that they provide the information gathering and oversight necessary for a number of programs. While important, reporting and record keeping alone do not improve environmental quality. Instead, they are a necessary condition for the proper implementation of the requirements of the Act. The benefits to society of cleaner air and reduced health risk are more appropriately a part of the National Ambient Air Quality Standards and other programs under title III. Title V facilitates the implementation of these programs and therefore is of limited environmental benefit. According to this paradigm, the above list of benefits is more appropriate for the discussion of the benefits to title V, since they deal with enhancement of the Act's effectiveness and mitigate administrative problems previously associated with permitting programs.

5(b) EXPECTED BENEFITS

A primary benefit of the title V permit program is that it will consolidate all of the applicable requirements that apply to a particular source into a single, Federally-enforceable document. In the past, many sources and air pollution control agencies have lacked sufficient information to properly comply with or enforce applicable regulations. A source's obligations under the Act, ranging from emissions control and monitoring to record keeping and reporting, are identified in sections 503 and 504(a), (b), and (c) of the Act. For convenience, these provisions are included in Appendix B to this document. For the most part, these benefits accrue to the part 70 permit program for States and other Permitting Authorities (PAS). However, the part 71 program is designed to provide a backup permitting program in the event the PA is not able to receive approval for its own program. In addition, since part 71 is more costly to respondents than its part 70 counterpart, it also provides a degree of additional incentive to States and other PAS to develop Operating Permit Programs which will be approvable. The Agency believes that to the extent that these benefits are attributable to part 71 rather than to the appropriate pollutant standard or to part 70, these benefits are not quantifiable.

5(c) HEALTH BENEFITS

Air pollution has adverse effects on human health and welfare. Controlling pollution means reducing these adverse effects. The benefits of air pollution control are the values (both known and unknown) to society brought about by the reduction in adverse health and welfare

effects. A proper economic benefit analysis is based on appropriate economic theories and analytical tools to measure all values to all individuals in dollars or other appropriate units for all expected impacts. The translation of impacts into dollar values. where possible, allows the summation of impacts and direct comparison with the costs of pollution control.

The Clean Air Act is designed to prevent adverse effects, such as adverse impacts to human health such as acute or chronic effects that result in increased mortality or morbidity; and adverse impacts to productivity due to lost work days and reduced efficiency work days due to physical impairment caused by air pollution. The effects of these impacts on well-being, including the risks of incurring them and the costs of avoiding or ameliorating them, determine the economic valuation of the changes in air quality. This valuation can be positive or negative, depending on whether air quality improves or deteriorates. For improvements, the valuation is positive, representing benefits of the pollution reduction; and for deterioration, the valuation will represent damages of the additional pollution. Consistent with the philosophy established in the 1992 analysis for part 70, the Agency believes that the health benefits that result from the part 71 rulemaking are more appropriately counted among the benefits of the appropriate pollutant's standard.

5(d) ENVIRONMENTAL BENEFITS

Environmental effects include user effects that do not directly result in changes in the welfare or health of individuals. This includes:

a. impacts to materials -- corrosion, soiling and other damage to building materials, metals, fabrics, equipment, etc;
b. impacts to vegetation -- reduction in productivity or aesthetic appeal of domestic crops, ornamental plants and native vegetation;
c. impacts to animals -- effects on health and productivity of livestock, pets, and wildlife; and
d. impacts on climate -- changes in temperatures and/or precipitation.

The benefits and costs of environmental effects can be hard to quantify, and are generally estimated through numerous accepted economic methods, such as through damage functions and production functions. Consistent with the philosophy established in the 1992 analysis for part 70, the Agency believes that the environmental benefits that accrue as a result of the part 71 rulemaking are more appropriately counted among the benefits of the appropriate pollutant's standard.

5(e) INTANGIBLE BENEFITS

Intangible benefits include a wide variety of benefit categories for which quantification is virtually impossible. The aesthetic impacts -- reduced visibility or visual discoloration of the air and objects viewed through it and other aesthetic effects such as unpleasant odors -- have values that vary significantly from person to person, based on individual tastes and preferences. Other categories of intangible benefits, such as option values and existence values, carry with them time related and intergenerational characteristics that make evaluation even more difficult. Estimates

of intangible benefits can be achieved, however, though several accepted economic methods, including hedonic pricing, travel cost valuation, and contingent valuation surveys.

Hedonic pricing seeks to establish the market price of a good or service by subdividing that item into basic core components, each of which as its own separate value. A common example of this process is the way that realtors value homes. The same process can be used for environmental benefits as well. For example, air quality can be evaluated by examining the differential in similar housing units in locations with different air quality characteristics. Travel cost valuation values environmental quality by examining the degree to which individuals choose a specific location for recreational purposes. The analyst evaluates the individual's costs of travel, including transportation, lodging, foregone wages, and other relevant cost categories and the sum of these values is used as a proxy for the value that the individual places on that resource. Contingent valuation surveys place values on environmental resources based on the responses of a sample of individuals to a survey that asks respondents to place values on and choose between alternative environmental scenarios.

All three valuation methodologies have strengths and weaknesses. Their usefulness depends on the design of each model, and the care with which data are gathered. Typically, the three methodologies are expensive to perform, with hedonic and travel cost methods somewhat cheaper that contingent valuation surveys. As with health and environmental benefits, the Agency believes that any intangible benefits derived from the part 71 rulemaking are more appropriately counted among the benefits of the appropriate pollutant's standard.

6. ASSESSING COSTS

6(a) INTRODUCTION

This chapter addresses the explicit costs of the title V operating permits program in terms of fees generated, number of sources, and the administrative burden associated with implementing a Federal operating permit program. Coverage includes: (1) the criteria air pollutants and their precursors--volatile organic compounds (VOC), ozone (O_3), particulate matter (PM-10), nitrogen oxides (NO_x), sulfur dioxide (SO_2), lead (Pb), and carbon monoxide (CO) from major stationary sources; and (2) air toxic emissions regulated under title III. The chapter also presents the methodology for determining the administrative burden to the EPA and sources. The cost to sources includes the administrative cost of securing and modifying operating permits and permit fees. The permit fee must cover the costs that the Federal government incur in administering a part 71 operating permit program, including oversight and program implementation, permit issuance, data management, additional costs to establish the human capital necessary for the proper administration of a permit program, and any cost of additional resources necessary for oversight of contractor managed programs. The cost estimate excludes opportunity costs and any unquantifiable cost associated with any production delays attributed to permitting.

6(b) METHODOLOGY

This section discusses the methodology used to estimate Federal and source costs

associated with the implementation of a part 71 permit program, including the determination of a nationwide estimate for administrative costs and an analysis of economic impacts of part 71 on small businesses in accordance with the requirements of the Regulatory Flexibility Analysis.

6(b)(I) UNDERLYING ASSUMPTIONS

For purposes of establishing a bottom line impact for part 71, the following assumptions were maintained: (1) the development of general permits under part 71 would not be cost effective, (2) administrative burdens under part 70 understate part 71 requirements due to the need for the EPA or its administrative agent to develop sufficient expertise about the unique conditions of a specific permitting authority's jurisdiction , (3) the Agency will delegate part 71 responsibilities back to States whenever it runs a part 71 program, (4) only eight States will require part 71 permitting, (5) the duration of the part 71 program will be two years, (6) the Agency will approve one-third of all permit applications in each of the two ears of the part 71 program, with a "mid-year convention" employed for purposes of evaluation, and (7) the Federal discounting factor for purposes of net present value determination was seven percent per annum.

6(b)(ii) NUMBER OF SOURCES

Typically, a rule with national scope requires a national analysis. However, an assumption of complete failure of part 70 is not a reasonable starting point. Almost all State and local air pollution control agencies already have some kind of operating permit program in place, most of whom issue permits to sources emitting less than 25 tpy. Moreover, all States except one have developed and submitted complete operating permits programs to EPA. Of these programs on which EPA has been able to take action, all but Virginia have been approved. Although there are several programs on which the Agency has not been able to take action, based on program submittal dates and the status of EPA's review of these programs, the Agency expects to administer a part 71 program in the rest of the States listed in Table 1-1. A survey done by the Agency indicates there are slightly less than 6 percent of the nation's sources in these eight States. While a part of the analysis contained in this report was performed upon the assumption of universal noncompliance, that analysis was performed strictly as a means of measuring the marginal effect of the part 71 rule. For purposes of establishing a part 71 bottom line cost, 6 percent of that universal cost and burden was used as a proxy for the assumption that the identified eight States may be found noncompliant.

For purposes of the part 71 analysis, the Agency assumes that the distribution of sources between the categories listed below for part 71 will remain the same as that which was established for part 70. For permit revisions, however, the original 1992 ICR and RIA for part 70 is no longer appropriate. Under currently proposed changes to part 70, permit revisions are now allocated between two processing tracks according to the magnitude of the change, rather than by source size. Similarly, under EPA's supplemental proposal for part 71, permit revisions would be streamlined and less complex. The 1995 proposed permit revision process for part 70 will also be used for this analysis. In accordance with the taxonomy established for part 70's ICR , sources are described as major or nonmajor with respect to tons of emissions per year, and they are described as large or small with respect to plant size, number of emission points, complexity of air pollution

13

control equipment, and parameters other than tons of emissions per year. Table 6-1 compares the number of sources estimated under title V coverage for the 1992 part 70 ICR to that for part 71.

Table 6-1
Estimated Number of Sources
(Part 70 v. Part 71)

Major Source Classification	Number of Part 70 Sources	Number of Part 71 Sources
Large Sources	9,160	9,160
Small Sources	10,707	21,414
Small Sources-general permit	10,707	0
Toxics	1,875	3,750
Toxics- general permit	1,875	0
TOTALS	34,324	34,324

1. Major / large sources = 9,160
   Sources emitting more than 100 tpy; based on 1990 Aerometric Information Retrieval System (AIRS) Air Facility Subsystem (AFS).
2. Major / small sources = 21,414
   Nontoxic sources emitting less than 100 tpy; based on 1990 AIRS' AFS corrected for the South Coast Air Quality Management District (California) classification as an extreme nonattainment area.
3. Major toxic sources = 3,750
   Air toxics sources emitting more than 10 tpy (or 25 tpy combined); based on Toxic Release Information System (TRIS). These sources are considered to be small in terms of emission points and complexity of air pollution control equipment, but major in terms of tpy of emissions. Large toxics sources are assumed to be included in the above 9,160 estimate.
4. Total major / small sources = 25,164

In the part 70 ICR, the Agency identified a total of 350,000 nonmajor air toxic sources under section 112(c)(1) of the Act which received regulatory deferral until the second 5-year cycle of part 70 implementation, beginning as early as mid-1998. For part 71 purposes, these deferred nonmajor sources are excluded from analysis. Also in the part 70 ICR, the Agency determined that the regulatory burden imposed upon small entities was unnecessarily large, and could be mitigated by the establishment of a "General Permits" program that would allow various source categories which are small business dominated to use a generic permit application designed specifically for the needs of their industry. The 1992 ICR for part 70 assumed one half of the

major / small sources required to obtain permits would be eligible for a general permit. Under the current part 71 analysis, the Agency believes that such a general permit program would not be cost effective, due primarily to the narrow scope and short time frame of the part 71 program.

6(c) DEFINITION OF COST COMPONENTS

Part 71 administrative costs are incurred by stationary sources, which apply for operating permits; and the EPA, which provides oversight on program implementation, permit issuance, data management, and enforcement. For a fully delegated part 71 Operating Permit Program, the Agency estimates its total administrative cost to sources at $19.8 million annually for the two years of program implementation, annualized at seven percent per annum over the five year life of the source's permit. A complete list of the cost categories can be found in sections 503 and 504(a), (b), and (c) of the Act. For convenience, these sections have been included at the end of this report as Appendix A.

6(c)(I) PRINCIPAL COST: THE INFORMATION COLLECTION REQUEST

The costs in Table 6-2 are in 1994 dollars. While the total annualized cost of the part 71 permitting program is shown to be $38 million in Table 6-1, that cost is not shared by respondents and the Federal government. Title V requires the Federal permit fee to be sufficient

TABLE 6-2
THE COSTS* OF PART 71

	TOTAL	PER SOURCE
Number of Sources	2,059	
Annualized Cost		
Respondents	$18,125 *	$8,803
Federal	$19,813 *	$9,623
Total	**$37,938 ***	**$18,426**
Federal Fee		$26.85

* Based on a fully delegated Federal Operating Permit Program, in thousands of 1994 dollars.

to cover all applicable administrative costs of the part 71 program.. Consequently, any costs incurred by the Agency in administering a permit program will be recaptured through the annual fee imposed on sources. Therefore, the true cost of the part 71 permitting program to the Federal government is zero, and the true cost of the program to respondents is the full $38 million. A complete discussion of these costs can be found in the companion report: Information Collection Request Analysis for Part 71.

6(c)(ii) THE COST OF ALTERNATIVES

The cost data in Table 6-2 is primary, direct costs of management and implementation of a part 71 Federal operating permit program. Section 4 of this report lists three alternative regulatory approaches. This section discusses the direct and secondary cost effects of those three alternatives. While "No Regulation" would necessarily reduce direct costs, the secondary cost of not providing an operating permit program makes this alternative unacceptable. "No Regulation" allows for air pollution to continue without adequate control and accountability, thereby reducing the benefits to individuals, groups, and industry listed under sections 5(d) and 5(e) of this report.

Changing the effective date of the regulation could change the value of costs and benefits, as well as the distribution of those costs and benefits among different interest groups within the economy. For instance, postponing regulation allows for further technological innovation to reduce the cost of compliance. Postponing compliance deadlines also increases the base for valuing benefits. As populations increase, the benefits of regulatory control are enjoyed by more people, while the costs of control remain constant (or fall, if technological innovation has occurred). Therefore, programs that may be infeasible today (because the sum of benefits does not outweigh the costs of regulation) may very well be an economically viable alternative some years from now. However, the additional loss of health and environmental benefits during the postponement period must also be included in the decision to push back compliance deadlines. Once these additional costs and benefit losses are included in the calculation, it may be much harder to justify waiting until a later date to achieve compliance.

Economic incentives work to reduce costs. In the extreme, economic incentives would allow compliance at the lowest possible cost, but in general, due to other market distortions inherent in the system, one can only expect economic incentives to provide some relief from the costs of regulation. Economic incentives fall into several categories, several of which provide market opportunities for sources to trade abatement opportunities based on the differences between sources in the cots of abatement. These programs are voluntary, and consequently, unless the trade will be advantageous to each party involved, the trade will not take place. Therefore, we can unambiguously state that market based incentive programs cannot increase compliance costs. Additionally, if at least one trade takes place, we can be fairly sure that overall compliance costs will fall.

7. REGULATORY FLEXIBILITY ACT REQUIREMENTS

7(a) INTRODUCTION

The Regulatory Flexibility Act requires Federal agencies to review the effects of their regulations on small entities and to involve these entities more actively in developing and reviewing regulations. On April 9, 1992, the Agency officially adopted revised Guidelines for Implementing the Regulatory Flexibility Act, which requires that for:

> ". . . any rule subject to the Regulatory Flexibility Act, the Agency's new policy requires a regulatory flexibility analysis (RFA) if the rule will have any economic impact, however small, on any small entities that are subject to the rule, even though the Agency may not be legally required to do so."

The term "small entities" includes small businesses, small governmental jurisdictions, and small organizations. Through the EPA's proposal, public review, comment period, and promulgation process, provision is made for involvement of all affected parties. However, by nature, part 71 will have no impact on State or local permitting authorities. Involvement has been elicited already from local, State, environmental, and business groups. The criteria for "smallness" applies to the entire firm, not to each of the facilities, plants, or establishments owned by the firm. The Small Business Administration (SBA) defines "small businesses" by SIC code in terms of annual sales or employment.

This section of the economic impact analysis presents the methodology and results of an RFA screening analysis of the title V operating permits program, the purpose of which was to survey "high risk" industries within the small business community and identify the potential for adverse impact. As a result of the screening analysis and comments from the title V regulatory development work group, steps were also taken to propose regulations with features that mitigate adverse impacts on small businesses while still meeting the objectives of title V. Because part 71 was designed as a backstop program against the failure of a permitting authority to obtain part 70 approval, the Administrator believes that the original screening analysis for part 70 is also valid for purposes of part 71's RFA.

7(b) METHODOLOGY

The Agency identified industries which were potentially at "high risk" and selected them for the screening analysis based on whether that industry was comprised of predominantly small entities and whether the industry had expressed much concern over regulatory burden in the past. A list of industries that met these criteria was derived based on SIC codes for two criteria pollutants (PM-10 and VOC) and for air toxics regulated under the Act. Sources of other criteria pollutants such as NOx and SO_2 were not included because these sources are mostly large sources and / or fuel combustion sources which could likely qualify for a general permit. Tables 7-1 to Table 7-5 present the universe of "high risk" industries used for this analysis for PM-10, VOC, and air toxics, respectively.

For purposes of the part 70 screening analysis, the total cost of the permit program on air

pollution sources was estimated based on the sum of permit fees (based on emissions) and administrative burden costs. The procedure for estimating these costs is explained in section 6 of this RIA. In this screening analysis, the impact of title V on small businesses is measured in terms of cost as a percent of sales. The procedure for this analysis is as follows:

(1) Obtain economic data (number of establishments, payroll, sales, and value added) for companies with less than 20 employees for the SIC's in the "high risk" categories.
(2) Determine the cost of compliance with the title V operating permits regulations as explained section 6.
(3) Determine ratios of compliance costs per sales.

Estimates of sales for each small entity segment of the high risk industries were obtained from the 1982 Enterprise Statistics and the 1987 Census of Manufacturers. Where necessary, the following other sources were used:

- 1987 Census of Service Industries (Subject Series)
- 1987 Census of Construction Industries (Industry Series)
- 1987 Census of Transportation (Geographic Area Series)
- 1987 Census of Mineral Industries.

7(c) UNDERLYING ASSUMPTIONS OF THE REGULATORY FLEXIBILITY ANALYSIS

Conservative assumptions were made consistently throughout this analysis and are explained below. The first conservative assumption involves limiting the analysis only to "high risk" industries. Such an analysis is likely to yield "worst case" scenarios. A more comprehensive analysis of all potential industries comprised of small sources would likely reveal a lower percentage of industries with cost/sales ratios greater than 3 percent.

Second, the determination of permit fee costs used a conservative methodology as well. In order to determine the fee cost, total emissions reported for a SIC were divided by the total number of establishments (not firms) within that SIC for the size distribution being analyzed. Assuming that there are some large emitters in the population, the approach basically assigns more tons of emissions to an establishment than it actually emits. Since the permitting fee was calculated based on tons of emissions, the cost tends to be overestimated.

A third source of conservatism comes from the assumption that the permits concept is new to most sources and that the permit application process therefore will be extremely time consuming. Three-quarters of the States presently have their own laws requiring operating permits for most minor and major sources of air pollution. Over half of the existing State permit programs address both new and existing sources and require renewal of permits periodically. Approximately 20 programs closely match the basic intent of title V and have the basic requirements for issuing permits, collecting fees, etc. Since title V permit regulations are being structured to minimize the disruption of those existing programs, the administrative cost assumptions used for this analysis may also be overestimated.

Fourth, the national scope of this analysis may also introduce a factor that skews the results in a conservative direction. The small sources likely to be affected by permitting regulations are those located in nonattainment areas. Assuming that most small sources are also

defined as "small entities," the impact of permitting costs would be localized in nonattainment areas and would not be an across-the-nation phenomena as this analysis assumes.

Finally, this analysis presents costs for obtaining initial permits and does not discuss costs for permit renewals. Permit renewals will invariably cost less for sources. The intent of the regulation is to limit information collection at the time of permit renewal to any major changes that may have occurred since the time of previous permit issuance.

TABLE 7-1
High Risk Industries for PM-10 and Screening Analysis Results

SIC	Type of Industry	Cost/Sales(%)
2911	Petroleum Refineries	0.10
2840	Soap & Cleaners	1.10
2449	Wood Containers	3.58
3211	Grey Iron Foundries	3.49
2951	Asphalt Paving	0.60
2611	Pulp Mills	0.16
3273	Ready Mix Concrete	7.28
3295	Structural Clay Products	2.67
2869	Industrial and Inorganic Organic Chemicals	0.79
2861	Wood and Gum Chemicals	0.74
2873	Agricultural Chemicals	1.06
3241	Hydraulic Cement	7.29
2621	Paper Mills	3.42
1422	Crushed & Broken Stone	6.33
2421	Saw Mills	2.76
3312	Blast Furnaces/Steel Mills	4.54
2732	Book printing	2.35
2813	Industrial Gases	0.64
2892	Explosives	0.85
1796	General Contractors (Industrial Bldgs)	3.69
3313	Electrometallurgical Products	1.88

TABLE 7-2
High Risk Industries for VOC and Screening Analysis Results

SIC	Type of Industry	Cost/Sales(%)
2899	Solvent Metal Cleaning	1.02
2711	Newspaper/Graphic Arts	7.44
2842	Perc & Petroleum Dry Cleaning	0.51
2911	Fixed Tanks	0.54
4226	Bulk Terminals	0.00
3011	Rubber and Tire Mfg.	3.30
3479	Auto and Truck Surface Coating	2.62
2461	Paper Surface Coating	0.57
1799	Architectural Coating	2.08
2621	Paper Products	2.79
2511	Wood Furniture	5.86
5541	Gas Service Stations	1.23
2435, 2436	Flat Wood Paneling	1.46
3479	Can Surface Coating	1.53
1321	Natural Gas Liquids	0.63
2821, 2861	SOCMI Fugitives	2.98
2431, 2499, 2851	Wood Finishing	2.13

TABLE 7-3
High Risk Industries For Air Toxics and Screening Analysis Results

SIC	Type of Industry	Cost/Sales(%)
2851	Paint and Allied Products	0.54
2869	Organic & Inorganic Products	0.61
2861	Wood and Gum Chemicals	0.61
2873	Agricultural Chemicals	0.44
2842	Perc and Petroleum Dry Cleaners	0.45
3011	Rubber and Tire Mfg.	1.01
2011	Meat Packing	0.39
2013	Sausage and Other Meats	0.47
2046	Wet Corn Milling	0.35
2231	Weaving Mills	1.41
2732	Book Printing	1.18
2813	Industrial Gases	0.46
3339	Primary Nonferrous Materials	0.44
2875	Fertilizers	0.41
2891	Adhesives and Sealants	0.61
3111	Leather Tanning and Finishing	1.34
3291	Abrasive Products	1.30
3861	Photo Equip. and Supplies	0.65

TABLE 7-4
COST OF PERMITTING AS PERCENT OF SALES

	Percent of Industry with Estimated Permitting Costs Greater Than 1 Percent of Sales	Percent of Industry with Estimated Permitting Costs Greater Than 3 Percent of Sales
PM-10	67%	38%
VOC	70%	18%
TOXICS	28%	–
TOTAL	55%	20%

7(d) RESULTS

Screening analysis results are summarized in Tables 7-1 to 7-4. As can be seen from Table 7-4, about 38 percent (8 of 21) of the industries analyzed for PM-10 had estimated permitting costs higher than 3 percent of sales. The highest permitting cost/sales ratio was around 7 percent. For VOC, about 18 percent (3 of 17) of the industries analyzed had permitting costs higher than 3 percent of sales. The highest permitting cost/sales ratio was also in the 7 percent range. None of the industries studied for air toxics had permitting costs higher than 3 percent of sales. Although these figures suggest the potential for adverse impact on a number of small entities, it should be noted that the methodology was deliberately designed to yield conservative estimates.

TABLE 7-5
COST OF PERMITTING AS PERCENT OF VALUE ADDED

	Percent of Industry with Estimated Permitting Cost Less Than 1 Percent of Value Added	Percent of Industry with Estimated Permitting Cost Less Than 1 Percent of Value Added	Percent of Industry for Which More Assessment is Needed
PM-10	14%	50%	50%
VOC	14%	50%	50%
TOXICS	61%	100%	–

7(e) MEASURES TO AVERT IMPACTS ON SMALL FIRMS

The EPA may exempt source categories, in whole or in part, from the requirements under title V compliance with these requirements would be "impracticable, infeasible, or unnecessarily burdensome." Thus, the impacts of permitting on small firms will be averted completely for any source category which receives a title V exemption. However, the Agency may under no circumstances exempt a major air pollution source. The EPA's draft regulations grant full exemptions for residential wood stoves and asbestos demolition/remodeling and deferred applicability for five years from the date of program approval for all nonmajor sources.

7(f) MEASURES TO MITIGATE IMPACTS ON SMALL FIRMS

The impact of permitting costs on small firms can be mitigated in four primary ways. The first measure is the implementation of small business stationary source technical and environmental compliance assistance programs as called for in section 507 of the Act (at the Federal and State levels). These programs may significantly alleviate the economic burden on small sources by establishing: 1) programs to assist small businesses with determining what Act requirements apply to their sources and when they apply, and 2) guidance on alternative control technology and pollution prevention for small businesses.

The second mitigation measure is deferred applicability or exemption of one or several source categories from the requirements of title V. Small sources will benefit from the proposed initial five year deferral because they: 1) will not be required to pay permit fees during this period, and 2) will not be required to obtain a permit during the first years after program approval, when the States and the EPA will be gaining experience in implementing their new title V programs. It would be especially burdensome to require small sources, generally without the legal and technical resources at the level of major sources, to obtain permits at this time.

Third, the economic impact resulting from title V on small businesses can be reduced through the discretion of the permitting authorities. The Agency may charge variable emissions fee rates based upon source categories or pollutants as long as they can demonstrate that, in the aggregate, they will recover sufficient fees to cover the direct and indirect costs of developing and implementing their permit program. In this way, the Federal government may charge lower per-ton fees to certain source categories made up primarily of small sources to match their ability to pay and reduce the economic burden imposed on them.

Finally, although this analysis assumes general permits will not be cost effective, EPA is not precluded by the proposed rule from developing such permits.

7(g) CONCLUSIONS

The number of small entities adversely affected by permitting costs is identical under part 71 as that found under part 70. Since the two rules do not differ with respect to regulatory flexibility requirements, and since part 70 has been shown to not have a significant adverse impact on small entities, this analysis concludes that the proposed part 71 rulemaking does not have a significant adverse impact on small entities.

8. ENVIRONMENTAL JUSTICE CONSIDERATIONS

Because the title V requirements of the Act are national in scope, there is no disproportionate impact on minorities or members of lower income groups. However, the Agency recognizes that its regulations do not apply homogeneously across all regions of the country. Consequently, permitting a specific industry or region, such as a nonattainment area, may result in a disproportionate impact upon some demographic component of the population. Since all permits except for general permits are site specific, the Agency believes that it is more appropriate to defer environmental justice considerations until such time as permit approval begins. At that time, both for part 70 and 71 permits, a much closer look can be taken at the specific distributional effects of the permit in question with regard to answering the general questions posed by environmental justice concerns.

9. FINDINGS AND CONCLUSIONS

9(a) INTRODUCTION

The economic efficiency criterion states that society is better off relative to no regulation when the additional benefit of the regulatory action exceeds the additional cost. A necessary condition in applying the criterion is that the cost represents the least amount of resources necessary to achieve the regulatory objective. This condition of cost-effectiveness is approximated in the operating permits rulemaking. With respect to benefits, the categories are several. They include clarification and consolidation of a source's applicable requirements into a single document, improved use of local, State, and Federal enforcement resources, increased source accountability, better emissions and source-related data, improved implementation of other titles of the Act, and, to a lesser extent, emission reduction incentives. However, the overall improvement the operating permits rule gives to the air quality management program at the local, State, and Federal levels is not amenable to quantification. Consequently, the estimated benefit of the rule in monetary terms has not been developed.

Because this analysis relies upon a quantification of costs and a qualitative assessment of benefits, the Agency cannot determine whether the benefits exceed the costs. However, a thorough discussion of each of the benefits found in title V and part 71 can provide sufficient information for an accurate appraisal of the measures of benefits, if such a measure were possible. In particular, benefits can be subdivided into three primary categories, health, environmental, and intangible benefits. Of these categories, health and environmental benefits are the most easily defined in terms of magnitude and direction. To some extent, especially with regard to health benefits, there are empirical studies that establish reasonable quantifications of many health effects. For the third category, such empirical evidence is not readily available. Intangible benefits include option and existence values, the value of biodiversity, and intergenerational considerations that are generally ignored in a formal quantification of benefits.

9(b) FINDINGS AND CONCLUSIONS

This economic impact analysis has focussed on determining the relative benefits and costs derived from a part 71 Federal operating permit program as a backstop for title V's part 70 requirements. To a great extent, the discussion of benefits derived from part 71 must be a discussion of the title V benefits, while the costs of a part 71 program must include categories for respondents and the Agency not found in the 1992 part 70 RIA. This is due to the additional burden imposed upon the Federal government by a part 71 program, including the accumulation of necessary expertise, additional oversight of sources, and additional management costs incurred for delegating management of the program back to the permitting authority or to a contractor.

The direct costs of a part 71 program are readily determined, but the benefits are not. Consequently, one can only compare the relative benefits and costs of a Federal part 71 program in only the most general of terms and the Administrator believes that this rule has benefits that outweigh the costs of its implementation.

APPENDIX A

STATUTORY AUTHORITY

25

"SEC. 503. PERMIT APPLICATIONS.

"(a) APPLICABLE DATE.-Any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates-

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 502(a).

"(b) COMPLIANCE PLAN.-(1) The regulations required by section 502(b) shall include a requirement that the applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months.

"(2) The regulations shall further require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

"(c) DEADLINE.-Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this title for consideration of such applications), and shall issue or deny the permit, within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-third of such permits will be acted on by such authority annually over a period of not to exceed 3 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of this Act.

"(d) TIMELY AND COMPLETE APPLICATIONS.-Except for sources required to have a permit before construction or modification under the applicable requirements of this Act, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 502(a) before the date on which the source is required to submit an application under subsection (c).

"(e) COPIES; AVAILABILITY.-A copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114© of this Act, the applicant or permittee may submit such information separately. The requirements of section 114© shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

"SEC. 504. PERMIT REQUIREMENTS AND CONDITIONS.

"(a) CONDITIONS.-Each permit issued under this title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan.

"(b) MONITORING AND ANALYSIS.-The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title IV, or where required elsewhere in this Act.

"(c) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.-Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

"SEC. 507. SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.

"(a) PLAN REVISIONS.-Consistent with sections 110 and 112, each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under section 110, plans for establishing a small business stationary source technical and environmental compliance assistance program. Such submission shall be made within 24 months after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve such program if it includes each of the following:

"(1) Adequate mechanisms for developing, collecting, and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with this Act.

"(2) Adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution.

"(3) A designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act.

"(4) A compliance assistance program for small business stationary sources which assists small business stationary sources in determining applicable requirements and in receiving permits under this Act in a timely and efficient manner.

"(5) Adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under this Act.

"(6) Adequate mechanisms for informing small business stationary sources of their obligations under this Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with this Act.

"(7) Procedures for consideration of requests from a small business stationary source for modification of-

"(A) any work practice or technological method of compliance, or

"(B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. No such modification may be granted unless it is in compliance with the applicable requirements of this Act, including the requirements of the applicable implementation plan. Where such applicable requirements are set forth in Federal regulations, only modifications authorized in such regulations may be allowed.

"(b) PROGRAM.-The Administrator shall establish within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990 a small business stationary source technical and environmental compliance assistance program. Such program shall-

"(1) assist the States in the development of the program required under subsection (a) (relating to assistance for small business stationary sources);

"(2) issue guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small business stationary sources; and

"(3) provide for implementation of the program provisions required under subsection (a)(4) in any State that fails to submit such a program under that subsection.

"(c) ELIGIBILITY.-(1) Except as provided in paragraphs (2) and (3), for purposes of this section, the term 'small business stationary source' means a stationary source that-

"(A) is owned or operated by a person that employs 100 or fewer individuals,

"(B) is a small business concern as defined in the Small Business Act;

"(C) is not a major stationary source;

"(D) does not emit 50 tons or more per year of any regulated pollutant; and

"(E) emits less than 75 tons per year of all regulated pollutants.

"(2) Upon petition by a source, the State may, after notice and opportunity for public comment, include as a small business stationary source for purposes of this section any stationary source which does not meet the criteria of subparagraphs (C), (D), or (E) of paragraph (1) but which does not emit more than 100 tons per year of all regulated pollutants.

"(3)(A) The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from the small business stationary source definition under this section any category or subcategory of sources that the Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(B) The State, in consultation with the Administrator and the Administrator of the Small Business Administration and after providing notice and opportunity for public hearing, may

exclude from the small business stationary source definition under this section any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(d) MONITORING.-The Administrator shall direct the Agency's Office of Small and Disadvantaged Business Utilization through the Small Business Ombudsman (hereinafter in this section referred to as the 'Ombudsman') to monitor the small business stationary source technical and environmental compliance assistance program under this section. In carrying out such monitoring activities, the Ombudsman shall-

"(1) render advisory opinions on the overall effectiveness of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(2) make periodic reports to the Congress on the compliance of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(3) review information to be issued by the Small Business Stationary Source Technical and Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(4) have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(e) COMPLIANCE ADVISORY PANEL.-(1) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 individuals. This Panel shall-

"(A) render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered, and degree and severity of enforcement;

"(B) make periodic reports to the Administrator concerning the compliance of the State Small Business Stationary Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(C) review information for small business stationary sources to assure such information is understandable by the layperson; and

"(D) have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(2) The Panel shall consist of-

"(A) two members, who are not owners, or representatives of owners, of small business stationary sources, selected by the Governor to represent the general public;

"(B) two members selected by the State legislature who are owners, or who represent owners, of small business stationary sources (one member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, two members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and subparagraph © shall not apply);

"(C) two members selected by the State legislature who are owners, or who represent owners, of small business stationary sources (one member each by the majority

and minority leadership of the upper house, or the equivalent State entity); and

"(D) one member selected by the head of the department or agency of the State responsible for air pollution permit programs to represent that agency.

"(f) FEES.-The State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of small business stationary sources.

"(g) CONTINUOUS EMISSION MONITORS.-In developing regulations and CTGs under this Act that contain continuous emission monitoring requirements, the Administrator, consistent with the requirements of this Act, before applying such requirements to small business stationary sources, shall consider the necessity and appropriateness of such requirements for such sources. Nothing in this subsection shall affect the applicability of title IV provisions relating to continuous emissions monitoring.

"(h) CONTROL TECHNIQUE GUIDELINES.-The Administrator shall consider, consistent with the requirements of this Act, the size, type, and technical capabilities of small business stationary sources (and sources which are eligible under subsection (c)(2) to be treated as small business stationary sources) in developing CTGs applicable to such sources under this Act."

APPENDIX B

THE RESULTS OF THE INFORMATION COLLECTION REQUEST

TABLE B-1
Source Burden and Costs for Part 71 Operating Permits Program

Activity	Sources	Instances Year 1	Instances Year 2	Hours Per Instance	Hours Year 1	Hours Year 2	Cost (in thousands) Year 1	Cost (in thousands) Year 2	Cost (in thousands) Annual
I. LARGE SOURCES (> 100 tpy)									
A. Rule Interpretation and Planning	9,160	1	0	255	2,335,800	0	$105,111	$0	$25,636
B. Information Collection / Analysis	9,160	1	0	270	2,473,200	0	$111,294	$0	$27,144
C. Permit Application / Compliance Plan	9,160	1	0	271	2,482,360	0	$111,706	$0	$27,244
D. Progress Report / Monitoring / Certification	9,160	0	2	40	0	732,800	$0	$32,976	$17,046
E. Public Hearing	9,160	0.10	0.05	267	244,572	122,286	$11,006	$5,503	$8,932
F. TOTAL LARGE MAJOR SOURCES	**9,160**				**7,535,932**	**855,086**	**$339,117**	**$38,479**	**$106,000**
II. SMALL SOURCES (<100 tpy)									
A. Rule Interpretation and Planning	25,164	1	0	147	3,699,108	0	$166,460	$0	$40,598
B. Information Collection / Analysis	25,164	1	0	130	3,271,320	0	$147,209	$0	$35,903
C. Permit Application / Compliance Plan	25,164	1	0	163	4,101,732	0	$184,578	$0	$45,017
D. Progress Report / Monitoring / Certification	25,164	0	2	20	0	1,006,560	$0	$45,295	$23,413
E. Public Hearing	25,164	0.04	0.02	240	241,574	120,787	$10,871	$5,435	$8,822
F. TOTAL SMALL MAJOR SOURCES	**25,164**				**11,313,734**	**1,127,347**	**$509,118**	**$50,731**	**$153,754**
III. PERMIT APPLICATION REVISIONS									
A. Permit Revisions and Updates									
1. Category I	34,324	1.89	1.89	6	388,464	388,464	$17,481	$17,481	$18,705
2. Category II (MES)	34,324	0.06	0.06	120	240,000	240,000	$10,800	$10,800	$11,556
3. Category II (Notice and Go)	34,324	0.03	0.03	12	10,800	10,800	$486	$486	$520
4. Total Permit Revisions					**639,264**	**639,264**	**$28,767**	**$28,767**	**$30,781**
B. Organize and Hold Public Hearings									
1. Category I	34,324	1.89	1.89	0	0	0	$0	$0	$0
2. Category II (MES)	34,324	0.06	0.06	120	240,000	240,000	$10,800	$10,800	$11,556
3. Category II (Notice and Go)	34,324	0.03	0.03	0	0	0	$0	$0	$0
4. Total					**240,000**	**240,000**	**$10,800**	**$10,800**	**$11,556**
C. TOTAL PERMIT APPLICATION REVISIONS					**879,264**	**879,264**	**$39,567**	**$39,567**	**$42,337**
IV. MAXIMUM SOURCE BURDEN AND COSTS					**19,728,930**	**2,861,697**	**$887,802**	**$128,776**	**$302,091**
V. ANTICIPATED SOURCE BURDEN AND COSTS					**1,183,736**	**171,702**	**$53,266**	**$7,727**	**$18,125**

TABLE B-2-(a)
Federal Burden and Costs: Undelegated Part 71 Operating Permits Program

Activity	Sources	Instances Year 1	Instances Year 2	Hours Per Instance	Hours Year 1	Hours Year 2	Cost (in thousands) Year 1	Cost (in thousands) Year 2	Cost (in thousands) Annual
I. LARGE SOURCES (> 100 tpy)									
A. Application Completeness Review	9,160	1	0	10	91,600	0	$3,114	$0	$1,723
B. Technical Review & Processing	9,160	0.33	0.33	407	1,230,280	1,230,280	$41,830	$41,830	$44,758
C. Process Permit Re-openings	9,160	0	0.25	72	0	164,880	$0	$5,606	$2,898
D. Draft and Send Notices to Affected States	9,160	0.33	0.58	4	12,091	21,251	$411	$723	$601
E. Draft & Publish Public Notice	9,160	0.33	0.58	9	27,205	47,815	$925	$1,626	$1,352
F. Organize and Hold Public Hearings	9,160	0.03	0.06	178	53,806	94,568	$1,829	$3,215	$2,674
G. Compliance Inspection / Coordination	9,160	1	1	90	824,400	824,400	$28,030	$28,030	$29,992
H. Review Progress and Semi-annual Reports	9,160	0.00	1.30	20	0	238,160	$0	$8,097	$4,186
I. Emissions Tracking / Testing	9,160	1	1	31	283,960	283,960	$9,655	$9,655	$10,330
J. TOTAL LARGE MAJOR SOURCES					**2,523,342**	**2,905,314**	**$85,794**	**$98,781**	**$98,512**
II. SMALL SOURCES (<100 tpy)									
A. Application Completeness Review	25,164	1	0	10	251,640	0	$8,556	$0	$4,732
B. Technical Review & Processing	25,164	0.33	0.33	174	1,444,917	1,444,917	$49,127	$49,127	$52,566
C. Process Permit Re-openings	25,164	0	0.25	64	0	402,624	$0	$13,689	$7,076
D. Draft and Send Notices to Affected States	25,164	0.33	0.58	4	33,216	58,380	$1,129	$1,985	$1,651
E. Draft & Publish Public Notice	25,164	0.33	0.58	9	74,737	131,356	$2,541	$4,466	$3,714
F. Organize and Hold Public Hearings	25,164	0.03	0.06	151	125,392	220,386	$4,263	$7,493	$6,231
G. Compliance Inspection / Coordination	25,164	1	1	90	2,264,760	2,264,760	$77,002	$77,002	$82,392
H. Review Progress and Semi-annual Reports	25,164	0.00	1.30	19	0	621,551	$0	$21,133	$10,924
I. Emissions Tracking / Testing	25,164	1	1	31	780,084	780,084	$26,523	$26,523	$28,379
J. TOTAL SMALL MAJOR SOURCES					**4,974,747**	**5,924,059**	**$169,141**	**$201,418**	**$197,665**
III. PERMIT APPLICATION UPDATES AND REVISIONS									
A. Permit Revisions and Updates									
1. Category I	34,324	1.89	1.89	9	582,696	582,696	$19,812	$19,812	$21,198
2. Category II (MES)	34,324	0.06	0.06	180	360,000	360,000	$12,240	$12,240	$13,097
3. Category II (Notice and Go)	34,324	0.03	0.03	18	16,200	16,200	$551	$551	$589
4. Total Permit Revisions					**958,896**	**958,896**	**$32,602**	**$32,602**	**$34,885**
B. Organize and Hold Public Hearings									
1. Category I	34,324	1.89	1.89	0	0	0	$0	$0	$0
2. Category II (MES)	34,324	0.06	0.06	180	360,000	360,000	$12,240	$12,240	$13,097
3. Category II (Notice and Go)	34,324	0.03	0.03	0	0	0	$0	$0	$0
4. Total					**360,000**	**360,000**	**$12,240**	**$12,240**	**$13,097**
C. TOTAL PERMIT APPLICATION UPDATES AND REVISIONS					**1,318,896**	**1,318,896**	**$44,842**	**$44,842**	**$47,981**
IV. TOTAL SOURCE SPECIFIC FEDERAL BURDEN FOR MAJOR SOURCES					**8,816,984**	**10,148,268**	**$299,777**	**$345,041**	**$344,159**
V. NON-SOURCE RELATED PERSONNEL COSTS									
A. Small Business Assistance	112	1	1	4160	465,920	465,920	$15,841	$15,841	$16,950
B. Transition Planning	112	1	1	3192	357,504	357,504	$12,155	$12,155	$13,006
C. Informational Services	112	1	1	2080	232,960	232,960	$7,921	$7,921	$8,475
D. Ongoing Guidance / Coordination	112	1	1	4160	465,920	465,920	$15,841	$15,841	$16,950
E. Contract Management (One FTE)	112	1	1	2080	232,960	232,960	$7,921	$7,921	$8,475
F. Training (averaged over two years)	112	1	1	2080	232,960	232,960	$7,921	$7,921	$8,475
G. TOTAL NON-SOURCE RELATED PERSONNEL COSTS					**1,988,224**	**1,988,224**	**$67,600**	**$67,600**	**$72,332**
VI. TOTAL COST OF A 100% FTE RUN FEDERAL OPERATING PERMIT PROGRAM					**10,805,208**	**12,136,492**	**$367,377**	**$412,641**	**$416,491**

TABLE B-2-(b)
Burden and Costs for Alternative Undelegated Part 71 Operating Permits Programs

I.	TOTAL PERSONNEL COST OF A 100% FTE RUN FEDERAL OPERATING PERMIT PROGRAM (line VI, Table A-2-(a)	**$416,491**
II.	TOTAL PERSONNEL COST FOR A 100% CONTRACTOR RUN FEDERAL OPERATING PERMIT PROGRAM *	**$758,013**
III.	TOTAL PERSONNEL COST FOR A 70% CONTRACTOR / 30% FTE MIX *	**$658,055**
IV.	ANTICIPATED PERSONNEL COST OF A 100% FTE RUN FEDERAL OPERATING PERMIT PROGRAM **	**$24,989**
V.	ANTICIPATED PERSONNEL COST OF A 100% CONTRACTOR RUN FEDERAL OPERATING PERMIT PROGRAM **	**$45,481**
VI.	ANTICIPATED PERSONNEL COST OF A 70% CONTRACTOR / 30% FTE MIX **	**$39,483**

* These values are based on the assumption that all 112 Permitting Authorities lack approved part 70 Operating Permit Programs.

** Based on eight States lacking approval part 70 Operating Permits Programs.

TABLE B-2-(c)
Federal Burden and Costs for a Delegated Part 71 Operating Permits Program

Activity	Sources	Instances Year 1	Instances Year 2	Hours Per Instance	Hours Year 1	Hours Year 2	Cost (in thousands) Year 1	Cost (in thousands) Year 2	Cost (in thousands) Annual
I. LARGE SOURCES (> 100 tpy)									
A. Application Completeness Review	9,160	1	0	7	64,120	0	$2,180	$0	$1,206
B. Technical Review & Processing	9,160	0.33	0.33	271	819,179	819,179	$27,852	$27,852	$29,802
C. Process Permit Re-openings	9,160	0	0.25	48	0	109,920	$0	$3,737	$1,932
D. Draft and Send Notices to Affected States	9,160	0.33	0.58	4	12,091	21,251	$411	$723	$601
E. Draft & Publish Public Notice	9,160	0.33	0.58	9	27,205	47,815	$925	$1,626	$1,352
F. Organize and Hold Public Hearings	9,160	0.03	0.06	142	42,924	75,442	$1,459	$2,565	$2,133
G. Compliance Inspection / Coordination	9,160	1	1	48	439,680	439,680	$14,949	$14,949	$15,996
H. Review Progress and Semi-annual Reports	9,160	0.00	1.30	20	0	238,160	$0	$8,097	$4,186
I. Emissions Tracking / Testing	9,160	1	1	26	238,160	238,160	$8,097	$8,097	$8,664
J. TOTAL LARGE MAJOR SOURCES					**1,643,359**	**1,989,607**	**$55,874**	**$67,647**	**$65,871**
A. Application Completeness Review	25,164	1	0	7	176,148	0	$5,989	$0	$3,312
B. Technical Review & Processing	25,164	0.33	0.33	116	963,278	963,278	$32,751	$32,751	$35,044
C. Process Permit Re-openings	25,164	0	0.25	43	0	270,513	$0	$9,197	$4,754
D. Draft and Send Notices to Affected States	25,164	0.33	0.58	4	33,216	58,380	$1,129	$1,985	$1,651
E. Draft & Publish Public Notice	25,164	0.33	0.58	9	74,737	131,356	$2,541	$4,466	$3,714
F. Organize and Hold Public Hearings	25,164	0.03	0.06	121	100,480	176,601	$3,416	$6,004	$4,993
G. Compliance Inspection / Coordination	25,164	1	1	48	1,207,872	1,207,872	$41,068	$41,068	$43,942
H. Review Progress and Semi-annual Reports	25,164	0.00	1.30	19	0	621,551	$0	$21,133	$10,924
I. Emissions Tracking / Testing	25,164	1	1	26	654,264	654,264	$22,245	$22,245	$23,802
J. TOTAL SMALL MAJOR SOURCES					**3,209,995**	**4,083,815**	**$109,140**	**$138,850**	**$132,137**
A. Permit Revisions and Updates									
1. Category I	34,324	1.89	1.89	6	388,464	388,464	$13,208	$13,208	$14,132
2. Category II (MES)	34,324	0.06	0.06	120	240,000	240,000	$8,160	$8,160	$8,731
3. Category II (Notice and Go)	34,324	0.03	0.03	12	10,800	10,800	$367	$367	$393
4. Total Permit Revisions					**639,264**	**639,264**	**$21,735**	**$21,735**	**$23,256**
B. Organize and Hold Public Hearings									
1. Category I	34,324	1.89	1.89	0	0	0	$0	$0	$0
2. Category II (MES)	34,324	0.06	0.06	120	240,000	240,000	$8,160	$8,160	$8,731
3. Category II (Notice and Go)	34,324	0.03	0.03	0	0	0	$0	$0	$0
4. Total					240,000	240,000	$8,160	$8,160	$8,731
C. TOTAL PERMIT APPLICATION UPDATES AND REVISIONS					**879,264**	**879,264**	**$29,895**	**$29,895**	**$31,988**
IV. TOTAL SOURCE SPECIFIC FEDERAL BURDEN FOR MAJOR SOURCES					**5,732,618**	**6,952,686**	**$194,909**	**$236,391**	**$229,995**
A. Small Business Assistance	112	1	1	4160	465,920	465,920	$15,841	$15,841	$16,950
B. Transition Planning	112	1	1	3192	357,504	357,504	$12,155	$12,155	$13,006
C. Informational Services	112	1	1	2080	232,960	232,960	$7,921	$7,921	$8,475
E. Contract Management (One FTE)	112	1	1	2080	232,960	232,960	$7,921	$7,921	$8,475
F. Training (averaged over two years)	112	1	1	2080	232,960	232,960	$7,921	$7,921	$8,475
G. TOTAL NON-SOURCE RELATED PERSONNEL COSTS					**1,988,224**	**1,988,224**	**67,600**	**67,600**	**$72,332**
VI. TOTAL COST OF A DELEGATED FEDERAL OPERATING PERMIT PROGRAM *					**7,720,842**	**8,940,910**	**$262,509**	**$303,991**	**$302,327**
VII. ANTICIPATED COST OF A DELEGATED OPERATING PERMIT PROGRAM **					**463,251**	**536,455**	**$15,751**	**$18,239**	**$18,140**

TABLE B-3
Federal Burden and Costs for Part 71 Operating Permits Program

	100% FTE	Delegated Program	100 % Contract	70% Contract 30% FTE
I. Base Cost	$416,491	$302,327	$758,013	$658,055
II. Travel	$14,488	$14,488	$14,488	$14,488
III. Data Management and Tracking	$13,400	$13,400	$13,400	$13,400
IV. Total Maximal Costs	**$444,379**	**$330,215**	**$785,901**	**$685,943**
V. Total Expected Cost	$26,663	$19,813	$47,154	$41,157
VI. Total Fee in 1994 Dollars (based on 12.3 million tpy)	**$36.16**	**$26.85**	**$63.89**	**$55.77**
VII. Total Fee in 1996 Dollars	**$38.33**	**$28.48**	**$67.79**	**$59.16**

TABLE B-4
Average Hourly Cost Per Full Time Employee

Annual Salary of Permit Staff, GS 11 Step 3 (FY 95 Schedule)		$36,973.00
Annual Cost of Supervisory Staff, GS 13 Step 3 (FY 95 Schedule)	$52,693.00	
Factor (1/11)	0.09	
		$4,790.27
Annual Cost of Support Staff, GS 6 Step 6 (FY 95 Schedule)	$24,585.00	
Factor (1/8)	0.13	
		$3,073.13
Benefits (at 16%)		$7,173.82
Sick Leave / Vacation (at 10%)		$4,483.64
General Overhead		$14,497.00
Total Cost Per FTE		$70,990.86
Total Hourly Cost (Total Per FTE divided by 2.080 hours per year)		$34.13

ROW DEFINITIONS

"Rule Interpretation / Planning" includes the following tasks: review of appropriate rules and regulations, meetings with the permitting authority and/or Federal government (if needed), and any necessary negotiations.

"Information Collection / Analysis" includes inventory of emission points, estimation of emissions, inventory of existing air pollution control equipment and monitoring devices, or equipment, and identification of applicable requirements.

"Permit Application / Compliance Plan Development" includes preparation of the application form, including the identification of alternative scenarios, a compliance plan, a compliance schedule (if applicable), a certification of compliance, and a certification as to the truth, accuracy, and completeness of the application.

"Permit Revisions" are broken down into categories corresponding to the tracks for part 70 permit revisions, each of which has different procedures as provided in the August 1995 Supplemental proposal for part 70. Permit revisions are modifications to the source's permit submittal of the initial permit (i.e., includes permit revisions which occur after submittal but prior to approval). The number of occurrences under each of the permit revisions track differs from its part 70 counterpart because of programmatic differences between parts 70 and 71, such as the exclusion of general permits to half of the universe of small major sources.

"Progress Reporting / Monitoring / Compliance Certification" includes semi-annual progress reports if the sources is out of compliance, reports of any required monitoring on a semi-annual (or more frequent) basis, and certification as to the respondent compliance status.

"Public Hearing" includes preparation and participation in the hearing, including drafting and publishing public notices for hearings; travel, per diem, and transportation costs; registering participants; conducting and recording the proceeding; and preparing a transcript or other record of the proceeding.

COLUMN DEFINITIONS

Columns three and four of Table B-1, "Occurrences" indicate the first and second year number of times each source is expected to undertake the activity for that row.

Column five, "Hours Per Occurrence", indicates the number of person-hours required to perform the activity for that row one time.

Columns six and seven, "Hours" indicate the total number of first and second year person-hours required to perform the activity of the row for all sources. It is derived by multiplying the number of sources (column two) times the appropriate number of occurrences (column three or four), and then multiplying that product by the number of hours per occurrence (column five).

The total cost for each row in Table B-1 is derived by multiplying the appropriate "Hours" column (column six or seven) times $45.00 per hour, in accordance with the 1992 ICR for part 70 and the current ICR for the changes to part 70 under consideration at this time.

The far right column in each table contains annualized costs, utilizing the formula found in section 3(B)(2) of this ICR.